

PA Reinstates Voluntary Compliance Program

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The Pennsylvania Department of Revenue has reinstated its voluntary disclosure program, which had been suspended during the Commonwealth's recent tax amnesty. Program guidelines are the same as before the amnesty, except that the 5 percent amnesty nonparticipation penalty mandated by the amnesty legislation will not be waived.

Under Pennsylvania's Voluntary Disclosure Program, taxpayers who have outstanding Pennsylvania tax liabilities and are as yet unknown to the Department may come forward and qualify for a limited look-back period as well as general penalty abatement (excepting the 5% amnesty penalty).

The limited look-back period for non-corporate taxes is three years plus the current year. Taxes in this category include sales and use tax, employer withholding tax and personal income tax. In the case of trust fund taxes (collected sales tax and withheld personal income tax), there is no limited look-back period but general penalty abatement may be obtained.

A look-back period of five years plus the current year applies to corporate taxes. These include gross receipts tax, corporate net income tax, franchise tax, etc. Corporate taxes of foreign and domestic corporations registered with the Pennsylvania Department of State and Revenue Department are not eligible for the Voluntary Disclosure Program. But, the non-corporate tax liabilities of those companies will qualify where the company is not registered for the non-corporate tax.

Participants in the Voluntary Disclosure Program must waive their right to appeal any taxes submitted under the program. Generally, we initiate a voluntary disclosure case by contacting the Department on a "blind" basis to obtain a "case number." We then compile certain information and submit it to the Department, again on a "blind" basis. If the voluntary disclosure submission is accepted, the Department provides a standard Voluntary Disclosure Agreement for taxpayer execution. After the Agreement is signed by all parties, returns and tax payments due for the applicable look-back period are submitted.

Some companies which do not qualify for Pennsylvania's Voluntary Disclosure Program because they are already known to the Department may still have options available to seek partial relief. Of course, if there is a legal question as to whether tax is owed, one or more tax returns may be filed to precipitate an assessment that can be appealed - sometimes we have been able to use a single tax return as a vehicle to initiate a "test case" to give us an opportunity to negotiate a settlement on an issue affecting several tax years. If a company has already been assessed and failed to file a timely appeal, we may be able to pursue a collections compromise based on doubt as to liability or on inability to pay.

The bottom line is that if your company thinks back taxes may be owed to Pennsylvania (or another state, for that matter), we may be able to save your company some money, and probably some serious aggravation, by pursuing the appropriate course to resolve your tax exposure.

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